

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID A. KADLEC,

Defendant.

Case No. 97-CR-98-10-JPS

ORDER

On April 12, 2023, the Court denied Defendant's motion for compassionate release. ECF No. 2330. Now before the Court is Defendant's motion for an extension of his time to appeal that decision. ECF No. 2334.

Pursuant to Federal Rule of Appellate Procedure 4(b)(1)(A), Defendant's notice of appeal needed to have been filed within 14 days of the order being appealed. In this case, that deadline was April 26, 2023. Defendant's motion for an extension is dated May 1, 2023. ECF No. 2334. Even applying the prison mailbox rule, Federal Rule of Appellate Procedure 4(c), the extension request is late. However, "[u]pon a finding of excusable neglect or good cause," the Court may "before or after the time has expired . . . extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed" by Rule 4(b). Fed. R. App. 4(b)(4) (emphasis added).

Courts may find good cause where the moving party establishes that the reason underlying the extension request is due to "no fault" of his own—"excusable or otherwise." *Sherman v. Quinn*, 668 F.3d 421, 425 (7th Cir. 2012). On the other hand, courts must analyze the request under the

less lenient excusable neglect standard where the moving party alleges facts that indicate the reason for the request is due to his own fault. *Id.*

As grounds for his extension request, Defendant explains that he did not receive the Court's order until April 20, 2023 because his institution is on lock down. ECF No. 2334. Thus, the good cause standard applies to Defendant's motion. *Sherman*, 668 F.3d at 425. On Petitioner's representation, the Court finds good cause for an extension. Consequently, the Court will grant Petitioner the maximum extension that it is permitted to grant under Rule 4(b), or until **May 26, 2023**, to file his notice of appeal.

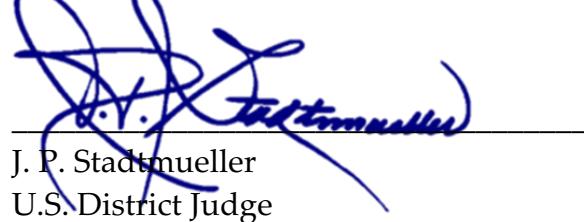
Accordingly,

IT IS ORDERED that Defendant's request for an extension of time to file his notice of appeal, ECF No. 2334, be and the same is hereby **GRANTED**; and

IT IS FURTHER ORDERED that Defendant's deadline to file a notice of appeal of the Court's April 12, 2023 order, ECF No. 2330, be and the same is hereby **EXTENDED** to **May 26, 2023**.

Dated at Milwaukee, Wisconsin, this 9th day of May, 2023.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge

A handwritten signature in blue ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. Below the signature, the name "J. P. Stadtmueller" is printed in black text, followed by "U.S. District Judge" in smaller black text.